

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Lynchburg Division

W.C. English, Inc.,

Plaintiff,

v.

RUMMEL, KLEPPER & KAHL, LLP,  
et al.,

Defendants.

Case No.: 6:17CV00018

**NOTICE OF REMOVAL OF CIVIL ACTION**

PLEASE TAKE NOTICE THAT Defendant, Rummel, Klepper & Kahl, LLP (“RK&K”), pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and with the consent of co-Defendant CDM Smith, Inc. (“CDM Smith”), hereby gives formal notice of removal of this action from the Circuit Court of the County of Rockbridge to the United States District Court for the Western District of Virginia, Lynchburg Division. The removal of this action is premised upon original jurisdiction. RK&K states the grounds for removal as follows:

1. RK&K is one of two Defendants in a Complaint filed by Plaintiff, W.C. English, Inc., in the Circuit Court of the County of Rockbridge, captioned as W.C. English, Inc. v. Rummel, Klepper & Kahl, LLP, et al., Case No. CL17000007-00 (hereinafter the “State Court Action”). The other co-Defendant is CDM Smith.

2. Removal is timely under 28 U.S.C. § 1446(b). See Murphy Bros. v. Michetti Pipe Stringing, 526 U.S. 344, 347-48, 54 (1999). Plaintiff filed the State Court Action on January 12, 2017. Although Plaintiff provided a courtesy copy of the summons and Complaint to the Defendants via e-mail on January 18, 2017, Plaintiff has elected not to formally serve the

Defendants with these documents as of the date of this removal. Copies of all process, pleadings, and orders located by Defendants on the State Court Action docket are attached as **Exhibit A** to this Notice of Removal. See 28 U.S.C. § 1446(a).

3. Complete diversity of citizenship exists between the parties. Plaintiff is a Virginia corporation with its principal place of business in Lynchburg, Virginia. (**Ex. A**, Compl. ¶ 1.) Defendant CDM Smith is a Massachusetts corporation with its principal place of business in Boston, Massachusetts. (Id. ¶ 5.)

4. RK&K is a Maryland limited liability partnership with its principal place of business in Baltimore, Maryland. (Id. ¶ 2.) Contrary to the Plaintiff's allegations based "[u]pon information and belief," (id. ¶ 4), at the time the State Court Action was filed and as of the date of filing this Notice of Removal, none of RK&K's partners was (or is) domiciled in Virginia. Therefore, complete diversity of citizenship exists between the Plaintiff and the Defendants. See N.Y. State Teachers Ret. Sys. v. Kalkus, 764 F.2d 1015, 1019 (4th Cir. 1985) (citizenship of a limited partnership is determined based on the citizenship of all its partners, both general and limited).

5. RK&K has communicated with counsel for CDM Smith about the State Court Action, and CDM Smith has indicated that it affirmatively consents to joining in this Notice of Removal. See Tinsley v. Streich, 143 F. Supp. 3d 450, 456 (W.D. Va. 2015) ("a notice of removal signed and filed by an attorney for one defendant representing unambiguously that the other defendants consent to the removal satisfies the requirement for unanimous consent for the purpose of removal." (citation omitted)).

6. The amount in controversy in this lawsuit exceeds \$75,000. The Complaint seeks damages against the Defendants in excess of \$3,000,000, exclusive of interest and costs. (See

Compl. at 15; see also Ex. A, *Civil Cover Sheet for Filing Civil Actions* (noting “Damages in the amount of \$3,312,823.00 are claimed”).) Taken together, Plaintiff’s alleged damages surpass the jurisdictional threshold.

7. Because the diversity of citizenship and amount in controversy requirements are satisfied as set forth above, this Court has original jurisdiction over this action under 28 U.S.C. § 1332.

8. This Court is the proper venue under 28 U.S.C. § 1441(a), because it is in the district and division that embraces the place where the State Court Action was initiated.

9. Promptly upon filing this Notice of Removal, RK&K will provide a written notice to Plaintiff and file a copy of the Notice of Removal with the Clerk of the Circuit Court of the County of Rockbridge in accordance with 28 U.S.C. § 1446(d).

10. By seeking removal, Defendants do not waive any defenses, including but not limited to lack of personal jurisdiction, insufficiency of process, or insufficiency of service of process.

Wherefore, having fulfilled the statutory requirements for removal of this action, Defendant RK&K, with the consent of co-Defendant CDM Smith, hereby removes this action from the Circuit Court of the County of Rockbridge to the United States District Court for the Western District of Virginia, Lynchburg Division on this 17th day of February, 2017.

RUMMEL, KLEPPER & KAHL, LLP

By: /s/ Brendan D. O’Toole  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of February, 2017, a copy of the foregoing Notice of Removal was served upon the following via First Class U.S. Mail postage prepaid and by email:

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